

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JEAN-CHRISTOPHE LIEBESKIND, et al.,

No. C-07-3962 MMC

Plaintiffs,

v.

ALLIANCE TITLE CO.,

Defendant

**ORDER DENYING PLAINTIFFS'
APPLICATION FOR MODIFICATION OF
BRIEFING SCHEDULE; CONTINUING
HEARING ON PLAINTIFFS' MOTION TO
AMEND**

ALLIANCE TITLE CO.,

Cross-complainant,

v.

JEAN-CHRISTOPHE LIEBESKIND, et al.,

Cross-defendants

Before the Court is plaintiffs' "Ex Parte Application for Modification of Briefing Schedule Re Release/Transfer of Funds," filed January 25, 2008. Cross-complainant Alliance Title Company ("ATC") has filed opposition, to which plaintiffs have replied.¹

¹Plaintiffs failed to provide a chambers copy of either their application or their reply to ATC's opposition. Nonetheless, the Court has considered such filings. For future reference, plaintiffs are reminded of the following provision in the Court's Standing Orders: "In all cases that have been assigned to the Electronic Case Filing Program, the parties are required to provide for use in chambers one paper copy of each document that is filed electronically. The paper copy of each such document shall be delivered no later than noon on the day after the document is filed electronically. The paper copy shall be marked 'Chambers Copy' and shall be delivered to the Clerk's Office in an envelope clearly marked with the judge's name, case number, and 'E-Filing Chambers Copy.'"

1 By the instant application, plaintiffs, observing the Court may shortly resolve the
2 federal claim pending herein and thereafter remand to state court the remaining state law
3 claims, seek an order allowing plaintiffs to file, and have heard on shortened time, a motion
4 for summary judgment as to ATC's state law claims. Recognizing the pleadings as to
5 ATC's state law claims are not settled in light of plaintiffs' pending motion to amend their
6 answer thereto,² plaintiffs also request that the Court rule on plaintiffs' motion to amend "as
7 soon as possible."

8 The Court finds plaintiffs have not shown good cause for the relief sought. Although
9 plaintiffs represent that the summary judgment motion they wish to file will be "relatively
10 straight-forward," plaintiffs, as ATC points out, fail to set forth the basis for the proposed
11 motion, rendering consideration of plaintiffs' argument impracticable, if not impossible.³
12 Plaintiffs also fail to explain how the new defenses they seek to allege in their proposed
13 amended answer, were the Court to grant plaintiffs leave to so amend, can be summarily
14 resolved without the parties' having time to conduct discovery thereon. See Fed. R. Civ. P.
15 56(f). Finally, as the Court has previously observed, the state law claims alleged herein
16 plainly predominate over the sole federal claim, (see Order, filed January 24, 2008, at 2:1-
17 2), calling into question the propriety of the Court's continued exercise of supplemental
18 jurisdiction over the state law claims, once the federal claim alleged herein is resolved.⁴
19 See 28 U.S.C. §§ 1367(c)(2), 1367(c)(3).

20 Accordingly, the application is hereby DENIED.

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23 ²On December 30, 2007, plaintiffs filed their motion to amend, noticing a February 8,
24 2008 hearing. By such motion, plaintiffs seek leave to amend both their answer to ATC's
claims and their complaint alleging claims against ATC.


25 ³Given the large number of factual and legal disputes between plaintiffs and ATC, as
26 set forth in a number of prior filings, the likelihood of a "straight-forward" motion for
summary judgment is not self-evident.

27 ⁴On January 29, 2008, the Internal Revenue Service ("IRS") filed a declaration
28 setting forth the calculation of its claim, and, that same date, plaintiffs filed a statement of
non-opposition to the amount sought by the IRS. The deadline for ATC or the Franchise
Tax Board to file any objection to the IRS's calculation is February 22, 2008.

1 Further, the hearing on plaintiffs' motion to amend is hereby CONTINUED from
2 February 8, 2008 to February 29, 2008.

3 **IT IS SO ORDERED.**

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5 Dated: February 1, 2008


MAXINE M. CHESNEY
United States District Judge